

REFERENCE TITLE: developmental disabilities; terminology; settings

State of Arizona
House of Representatives
Fifty-second Legislature
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2016

HB 2099

Introduced by
Representative Allen J

AN ACT

AMENDING SECTIONS 8-503, 8-514.01, 36-551, 36-554, 36-558, 36-558.01, 36-591, 36-592, 36-593, 36-594 AND 36-594.02, ARIZONA REVISED STATUTES; REPEALING SECTION 36-595.03, ARIZONA REVISED STATUTES; AMENDING SECTIONS 36-2939 AND 41-1037, ARIZONA REVISED STATUTES; RELATING TO DEVELOPMENTAL DISABILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-503, Arizona Revised Statutes, is amended to
3 read:

4 8-503. Powers and duties

5 A. The division shall:

6 1. Exercise supervision over all child welfare agencies.

7 2. Advise and cooperate with the governing boards of all child welfare
8 agencies.

9 3. Assist the staffs of all child welfare agencies by giving advice on
10 progressive methods and procedures of child care and improvement of services.

11 4. Establish rules, regulations, ~~and~~ and standards for:

12 (a) Licensing of child welfare agencies.

13 (b) Licensing of foster homes.

14 (c) Classifications of foster homes as:

15 (i) Receiving foster homes.

16 (ii) Regular foster homes.

17 (iii) Special classes of foster homes as are needed according to the
18 types of problems involved.

19 (iv) Group foster homes.

20 (d) Certifying each foster home according to one or more of the
21 categories prescribed in subdivision (c) of this paragraph.

22 (e) Initial and ongoing foster parent training programs.

23 (f) The method of approving foster parent training programs.

24 (g) Uniform amounts of payment for all foster homes according to
25 certification. However, variations in uniform amounts of payments may be
26 allowed for foster homes based on consideration of geographical location or
27 age or mental or physical condition of a foster child.

28 (h) Renewal of licenses of child welfare agencies and foster homes.

29 (i) Form and content of investigations, reports and studies concerning
30 disposition of children and foster home placement.

31 5. Establish a program of counseling and rehabilitation of parents
32 whose children have been placed in foster homes.

33 6. Establish foster parent training programs or contract with other
34 agencies, institutions or groups for the provision of such programs to foster
35 parents. Foster parent training programs shall be established in at least
36 the following areas:

37 (a) Initial and ongoing training as a foster parent for a regular or
38 group foster home.

39 (b) Initial and ongoing training as a foster parent for a special
40 foster home.

41 7. Regulate the importation and exportation of children.

42 8. In conjunction with the department of education and the department
43 of juvenile corrections, develop and implement a uniform budget format to be
44 submitted by licensed child welfare agencies. The budget format shall be

1 developed in such a manner that, at a minimum, residential and educational
2 instructional costs are separate and distinct budgetary items.

3 9. ~~Beginning October 1, 1983,~~ Establish as a goal that, at any given
4 time, not more than fifty ~~per cent~~ PERCENT of the total number of children
5 whose maintenance is subsidized by title IV, part E of the social security
6 act, as amended, shall be in foster care in excess of twenty-four consecutive
7 months. The division shall establish through regulations appropriate
8 procedures to achieve the goal.

9 B. Except as provided in section 8-514.01, large group settings for
10 children, group homes for children and child developmental ~~foster~~ homes ~~which~~
11 ~~THAT~~ have one or more residents who are clients of the department with
12 developmental disabilities shall be licensed pursuant to title 36,
13 chapter 5.1, article 3. Rules, regulations and standards adopted pursuant to
14 subsection A, paragraph 4 of this section shall not apply to group homes for
15 children or child developmental ~~foster~~ homes licensed pursuant to title 36,
16 chapter 5.1, article 3.

17 Sec. 2. Section 8-514.01, Arizona Revised Statutes, is amended to
18 read:

19 8-514.01. Placement of children with developmental disabilities

20 All foster placements of children with developmental disabilities made
21 by the division shall be made to child developmental ~~foster~~ homes for
22 children with developmental disabilities ~~THAT ARE~~ operated or licensed by the
23 department of economic security pursuant to title 36, chapter 5.1, article 3
24 ~~AND~~ that provide specialized programs for children with developmental
25 disabilities, except that placements of children with developmental
26 disabilities to ~~other types of~~ foster homes licensed pursuant to this article
27 may be made, if the division determines that such placement is in the best
28 interests of the child.

29 Sec. 3. Heading change

30 The chapter heading of title 36, chapter 5.1, Arizona Revised Statutes,
31 is changed from "STATE DEPARTMENT OF DEVELOPMENTAL DISABILITIES" to
32 "DEVELOPMENTAL DISABILITIES".

33 Sec. 4. Section 36-551, Arizona Revised Statutes, is amended to read:

34 36-551. Definitions

35 In this chapter, unless the context otherwise requires:

36 1. "Adaptive behavior" means the effectiveness or degree to which the
37 individual meets the standards of personal independence and social
38 responsibility expected of the person's age and cultural group.

39 2. "Adult developmental home" means a residential setting in a family
40 home in which the care, physical custody and supervision of the adult client
41 are the responsibility, under a ~~twenty-four hour~~ TWENTY-FOUR-HOUR care model,
42 of the licensee who, in that capacity, is not an employee of the division or
43 of a service provider and the home provides the following services for a
44 group of siblings or up to three adults with developmental disabilities:

45 (a) Room and board.

1 (b) Habilitation.

2 (c) Appropriate personal care.

3 (d) Appropriate supervision.

4 3. "Adult household member" means a person who is at least eighteen
5 years of age and who resides in an adult developmental home, child
6 developmental ~~foster~~ home, ~~secure setting~~ or ~~OTHER~~ home and community based
7 service setting for at least thirty days or who resides in the household
8 throughout the year for more than a cumulative total of thirty days.

9 4. "Advisory council" means the developmental disabilities advisory
10 council.

11 5. "Arizona training program facility" means a ~~state-operated~~
12 ~~STATE-OPERATED~~ institution for clients ~~OF THE DEPARTMENT~~ with developmental
13 disabilities ~~of the department~~.

14 6. "Attributable to cognitive disability, epilepsy, cerebral palsy or
15 autism" means that there is a causal relationship between the presence of an
16 impairing condition and the developmental disability.

17 7. "Autism" means a condition characterized by severe disorders in
18 communication and behavior resulting in limited ability to communicate,
19 understand, learn and participate in social relationships.

20 8. "Case management" means coordinating the assistance needed by
21 persons with developmental disabilities and their families in order to ensure
22 that persons with developmental disabilities attain their maximum potential
23 for independence, productivity and integration into the community.

24 9. "Case manager" means a person who coordinates the implementation of
25 the individual program plan of goals, objectives and appropriate services for
26 persons with developmental disabilities.

27 10. "Cerebral palsy" means a permanently disabling condition resulting
28 from damage to the developing brain that may occur before, after or during
29 birth and that results in loss or impairment of control over voluntary
30 muscles.

31 11. "Child developmental ~~foster~~ home" means a residential setting in a
32 family home in which the care, ~~physical custody~~ and supervision of the child
33 are the responsibility, under a ~~twenty-four hour~~ ~~TWENTY-FOUR-HOUR~~ care model,
34 of the licensee who serves as the ~~foster parent~~ ~~DEVELOPMENTAL HOME PROVIDER~~
35 of the child in the home setting and who, in that capacity, is not an
36 employee of the division or of a service provider and the home provides the
37 following services for a group of siblings or up to three children with
38 developmental disabilities:

39 (a) Room and board.

40 (b) Habilitation.

41 (c) Appropriate personal care.

42 (d) Appropriate supervision.

43 12. "Client" means a person receiving developmental disabilities
44 services from the department.

1 13. "Cognitive disability" means a condition that involves subaverage
2 general intellectual functioning, that exists concurrently with deficits in
3 adaptive behavior manifested before THE age OF eighteen and that is sometimes
4 referred to as intellectual disability.

5 14. "Community residential setting" means a RESIDENTIAL SETTING IN
6 WHICH PERSONS WITH DEVELOPMENTAL DISABILITIES LIVE AND ARE PROVIDED WITH
7 APPROPRIATE SUPERVISION BY THE SERVICE PROVIDER RESPONSIBLE FOR THE OPERATION
8 OF THE RESIDENTIAL SETTING. COMMUNITY RESIDENTIAL SETTING INCLUDES A child
9 developmental ~~foster~~ home, OR an adult developmental home OPERATED OR
10 CONTRACTED BY THE DEPARTMENT OR THE DEPARTMENT'S CONTRACTED VENDOR or a
11 ~~secure setting~~ GROUP HOME operated or contracted by the department ~~in which~~
12 ~~persons with developmental disabilities live and are provided with~~
13 ~~appropriate supervision by the service provider responsible for the operation~~
14 ~~of the residential setting.~~

15 15. "Consent" means voluntary informed consent. Consent is voluntary
16 if not given as the result of coercion or undue influence. Consent is
17 informed if the person giving the consent has been informed of and
18 comprehends the nature, purpose, consequences, risks and benefits of the
19 alternatives to the procedure, and has been informed and comprehends that
20 withholding or withdrawal of consent will not prejudice the future provision
21 of care and services to the client. In cases of unusual or hazardous
22 treatment procedures performed pursuant to section 36-561, subsection A,
23 experimental research, organ transplantation and nontherapeutic surgery,
24 consent is informed if, in addition to the foregoing, the person giving the
25 consent has been informed of and comprehends the method to be used in the
26 proposed procedure.

27 16. "Daily habilitation" means habilitation as defined in this section
28 except that the method of payment is for one unit per residential day.

29 17. "Department" means the department of economic security.

30 18. "Developmental disability" means either a strongly demonstrated
31 potential that a child under six years of age has a developmental disability
32 or will ~~become a child with~~ DEVELOP a developmental disability, as determined
33 by a test performed pursuant to section 36-694 or by other appropriate tests,
34 or a severe, chronic disability that:

35 (a) Is attributable to cognitive disability, cerebral palsy, epilepsy
36 or autism.

37 (b) Is manifested before THE age OF eighteen.

38 (c) Is likely to continue indefinitely.

39 (d) Results in substantial functional limitations in three or more of
40 the following areas of major life activity:

41 (i) Self-care.

42 (ii) Receptive and expressive language.

43 (iii) Learning.

44 (iv) Mobility.

45 (v) Self-direction.

1 (vi) Capacity for independent living.

2 (vii) Economic self-sufficiency.

3 (e) Reflects the need for a combination and sequence of individually
4 planned or coordinated special, interdisciplinary or generic care, treatment
5 or other services that are of lifelong or extended duration.

6 19. "Director" means the director of the department of economic
7 security.

8 20. "Division" means the division of developmental disabilities in the
9 department of economic security.

10 21. "Epilepsy" means a neurological condition characterized by
11 abnormal electrical-chemical discharge in the brain. This discharge is
12 manifested in various forms of physical activities called seizures.

13 22. "Group home" means a residential setting for not more than six
14 persons with developmental disabilities that is operated by a service
15 provider under contract with the ~~division~~ DEPARTMENT and that provides, ~~in a~~
16 ~~shared living environment,~~ room and board and daily habilitation, AND OTHER
17 ASSESSED MEDICALLY NECESSARY SERVICES AND SUPPORTS TO MEET THE NEEDS OF EACH
18 PERSON. Group home does not include an adult developmental home, a child
19 developmental ~~foster~~ home, ~~a secure setting~~ or an intermediate care facility
20 for persons with an intellectual disability.

21 23. "Guardian" means the person who, under court order, is appointed
22 to fulfill the powers and duties prescribed in section 14-5312. Guardian
23 does not include a guardian pursuant to section 14-5312.01.

24 24. "Habilitation" means the process by which a person is assisted to
25 acquire and maintain those life skills that enable the person to cope more
26 effectively with personal and environmental demands and to raise the level of
27 the person's physical, mental and social efficiency.

28 25. "Indigent" means a person with a developmental disability whose
29 estate or parent is unable to bear the full cost of maintaining or providing
30 services for that person in a developmental disabilities program.

31 26. "Individual program plan" means a written statement of services to
32 be provided to a person with developmental disabilities, including
33 habilitation goals and objectives, ~~which~~ THAT is developed following initial
34 placement evaluation and revised after periodic evaluations.

35 27. "Intermediate care facility for persons with an intellectual
36 disability" means a facility that primarily provides health and
37 rehabilitative services to persons with developmental disabilities that are
38 above the service level of room and board or supervisory care services or
39 personal care services as defined in section 36-401 but that are less
40 intensive than skilled nursing services.

41 28. "Large group setting" means a setting that in addition to
42 residential care provides support services such as therapy, recreation and
43 transportation to seven or more persons with developmental disabilities who
44 require intensive supervision.

1 29. "Least restrictive alternative" means an available program or
2 facility that fosters independent living, that is the least confining for the
3 client's condition and where service and treatment are provided in the least
4 intrusive manner reasonably and humanely appropriate to the individual's
5 needs.

6 30. "Likely to continue indefinitely" means that the developmental
7 disability has a reasonable likelihood of continuing for a protracted period
8 of time or for life.

9 31. "Manifested before THE age OF eighteen" means that the disability
10 must be apparent and have a substantially limiting effect on a person's
11 functioning before THE age OF eighteen.

12 32. "Physician" means a person who is licensed to practice pursuant to
13 title 32, chapter 13 or 17.

14 33. "Placement evaluation" means an interview and evaluation of a
15 person with a developmental disability and a review of the person's prior
16 medical and program histories to determine the appropriate developmental
17 disability programs and services for the person and recommendations for
18 specific program placements for the person.

19 34. "Psychologist" means a person who is licensed pursuant to title
20 32, chapter 19.1.

21 35. "Respite services" means services that provide a short-term or
22 long-term interval of rest or relief to the care provider of a person with a
23 developmental disability.

24 36. "Responsible person" means the parent or guardian of a minor with
25 a developmental disability, the guardian of an adult with a developmental
26 disability or an adult with a developmental disability who is a client or an
27 applicant for whom no guardian has been appointed.

28 ~~37. "Secure facility" means a facility that is licensed and monitored~~
29 ~~by the division, that is designed to provide both residential and program~~
30 ~~services within the facility and that is operated to prevent clients from~~
31 ~~leaving because of the danger they may present to themselves and the~~
32 ~~community.~~

33 ~~38.~~ 37. "Service provider" means a person or agency that provides
34 services to clients pursuant to a contract, service agreement or qualified
35 vendor agreement with the division.

36 ~~39.~~ 38. "State operated service center" means a state owned or leased
37 facility that is operated by the department and that provides temporary
38 residential care and space for child and adult services that include respite
39 care, crisis intervention and diagnostic evaluation.

40 ~~40.~~ 39. "Subaverage general intellectual functioning" means measured
41 intelligence on standardized psychometric instruments of two or more standard
42 deviations below the mean for the tests used.

43 ~~41.~~ 40. "Substantial functional limitation" means a limitation so
44 severe that extraordinary assistance from other people, programs, services or

1 mechanical devices is required to assist the person in performing appropriate
2 major life activities.

3 ~~42-~~ 41. "Supervision" means the process by which the activities of an
4 individual with developmental disabilities are directed, influenced or
5 monitored.

6 Sec. 5. Section 36-554, Arizona Revised Statutes, is amended to read:

7 ~~36-554.~~ Powers and duties of director

8 A. The director shall:

9 1. Be responsible for developing and annually revising a statewide
10 plan and initiating statewide programs and services for persons with
11 developmental disabilities in locations where the programs and services are
12 necessary, which shall include:

13 (a) Child services, which may include infant stimulation,
14 developmental training for ~~pre-school~~ PRESCHOOL children and special
15 education at Arizona training program facilities for school-age, children
16 with developmental disabilities residing at Arizona training program
17 facilities who do not attend public school.

18 (b) Adult services, in coordination with the vocational rehabilitation
19 services of the department, which may include but not be limited to job
20 training and training and adjustment services, job development and placement,
21 sheltered employment and other nonvocational day activity services for
22 adults.

23 (c) Residential services, including various community residential
24 settings, Arizona training program facilities and state operated service
25 centers ~~which~~ THAT provide varying levels of supervision in accordance with
26 the developmental disability levels of the persons placed at such settings,
27 facilities or centers. The department shall contract with private profit or
28 nonprofit agencies to provide appropriate residential settings for persons
29 with developmental disabilities ~~which~~ THAT provide for regular assistance and
30 supervision of such persons and ~~which~~ THAT provide varied developmental
31 disability programs and services on or near the community residential
32 setting.

33 (d) Resource services, which may include comprehensive evaluation
34 services, information and referral services and outpatient rehabilitation and
35 social development services. The department in providing developmental
36 disability programs and services shall whenever practicable utilize qualified
37 private contractors. In selecting private contractors, the department shall
38 utilize those contractors ~~which~~ THAT can clearly demonstrate an ability to
39 perform such contract in accordance with standards and specifications adopted
40 by the department.

41 2. Establish standards, provide technical assistance, and supervise
42 all developmental disability programs and services operated by or supported
43 by the department.

44 3. Coordinate the planning and implementation of developmental
45 disability programs and activities, institutional and community, of all state

1 agencies, provided this shall not be construed as depriving other state
2 agencies of jurisdiction over, or the right to plan for, control, and
3 operate programs that pertain to developmental disability programs but that
4 fall within the primary jurisdiction of such other state agencies.

5 4. Periodically assess the effectiveness of the quality assurance
6 system as required by 42 Code of Federal Regulations section 434.34 as it
7 pertains to developmental disabilities programs.

8 5. License community residential settings pursuant to this chapter.

9 6. Develop rules establishing a procedure for handling complaints
10 about community residential settings.

11 7. Inform in writing every parent or guardian of a client with a
12 developmental disability residing at or transferring to a community
13 residential setting of the complaint handling procedure.

14 ~~8. As new community residential settings are developed over a period~~
15 ~~of time, reduce the clientele at Arizona training program facilities to those~~
16 ~~persons with developmental disabilities who are required to be in Arizona~~
17 ~~training program facilities because the community lacks an appropriate~~
18 ~~community residential setting that meets their individual needs or whose~~
19 ~~parents or legal guardians want them in an Arizona training program facility.~~

20 ~~9.~~ 8. In conjunction with the division, individuals with
21 developmental disabilities and their families, advocates, community members
22 and service providers, develop, enhance and support environments that enable
23 individuals with developmental disabilities to achieve and maintain physical
24 well-being, personal and professional satisfaction, participation as family
25 and community members and safety from abuse and exploitation.

26 ~~10.~~ 9. Do all other things reasonably necessary and proper to carry
27 out the duties and the provisions of this chapter.

28 ~~11.~~ 10. Adopt rules regarding procurement procedures similar to those
29 found in title 41, chapter 23.

30 B. Programs and services offered pursuant to subsection A, paragraph 1
31 of this section shall be provided in cooperation with public and private
32 resources that can best meet the needs of persons with developmental
33 disabilities and that are located in the community and in proximity to the
34 persons being served.

35 C. The director may:

36 1. Establish nonresidential outpatient programs for THE placement,
37 evaluation, care, treatment and training of persons with developmental
38 disabilities residing in the community who are not eligible for public school
39 programs, and who do not have access to other ~~state-supported~~
40 STATE-SUPPORTED programs providing equivalent services.

41 2. Develop cooperative programs with other state departments and
42 agencies, political subdivisions of the state, and private agencies
43 concerned with and providing services for persons with developmental
44 disabilities.

1 3. Contract for the purchase of services with other state and local
2 governmental or private agencies. Such agencies are authorized to accept and
3 expend funds received pursuant to such contracts.

4 4. Stimulate research by public and private agencies, institutions of
5 higher learning, and hospitals in the interest of the prevention of
6 developmental disabilities and improved methods of care and training for
7 persons with developmental disabilities.

8 5. Apply for, accept, receive, hold in trust or use in accordance with
9 the terms of the grant or agreement any public or private funds or
10 properties, real or personal, granted or transferred to it for any purpose
11 authorized by this chapter.

12 6. Make and amend rules from time to time as deemed necessary for the
13 proper administration of programs and services for the treatment of persons
14 with developmental disabilities, for the admission of persons with
15 developmental disabilities to the programs and services and to carry out the
16 purposes of this chapter.

17 Sec. 6. Section 36-558, Arizona Revised Statutes, is amended to read:

18 36-558. Establishment and maintenance of programs and services;
19 definition

20 A. In addition to the Arizona training program facilities at Randolph
21 and Tucson, the director shall establish and maintain a state owned and
22 operated service center in Phoenix and other developmental disabilities
23 programs and services at other locations throughout the state, subject to the
24 availability of funds for such purpose and the approval of the legislature.

25 B. The director is responsible for the operation of each developmental
26 disabilities program and service, shall coordinate these services and shall
27 permit the transfer of residents between the various programs.

28 C. The department may provide, but not be limited to, the following
29 programs and services in addition to other services prescribed by the
30 director:

31 1. Child services, which may include:

32 (a) Infant stimulation.

33 (b) Developmental day training and related preschool programs.

34 (c) Special education at department facilities.

35 2. Adult services, which may include:

36 (a) Job training for specific jobs.

37 (b) Training and personal adjustment tools such as the teaching of
38 work skills.

39 (c) Job development and placement.

40 (d) The provision of sheltered employment opportunities.

41 (e) Adult day activity services.

42 3. Residential services, which shall include:

43 (a) Arizona training program facilities.

44 (b) State owned and operated service centers.

1 (c) Community residential settings under varying degrees of
2 supervision or a semi-independent living arrangement. ~~Community residential~~
3 ~~settings include, subject to the availability of funding, a secure facility.~~

4 (d) Respite care.

5 4. Resource services, which may include:

6 (a) ~~Diagnosis~~ **DIAGNOSES** and ~~evaluation~~ **EVALUATIONS**.

7 (b) Therapy services, including physical therapy, speech therapy,
8 occupational therapy and behavioral therapy.

9 (c) Health-related services, including dental services.

10 (d) Social development and adjustment services, including recreation
11 programs.

12 (e) Transportation.

13 (f) Information and referral.

14 (g) In-home services.

15 5. Public information resources on developmental disabilities.

16 6. Training and practicum programs in conjunction with other state
17 agencies and universities and colleges for teachers, psychologists, social
18 workers, medical personnel and others interested in the field of
19 developmental disabilities.

20 7. Research laboratories in the fields of behavioral services and
21 abstract research.

22 8. Guardianship services.

23 D. Services of a facility may not supplant existing community services
24 **THAT ARE** provided through other local, city or state resources.

25 E. The department shall stimulate, cooperate with and promote the
26 development of community programs through existing resources and provide
27 consultation wherever needed.

28 F. A service provider who is providing guardianship services must
29 comply with the disclosure requirements of section 14-5106 and shall not
30 provide services to a person with developmental disabilities that would cause
31 a conflict of interest or that would jeopardize the service provider's
32 ability to represent the person with developmental disabilities as a
33 guardian.

34 G. For the purposes of this section, "guardianship services" means
35 services offered to a person with developmental disabilities by a service
36 provider who is under contract with the division to act as a guardian to a
37 person with developmental disabilities if no other appropriate guardian is
38 available.

39 Sec. 7. Section 36-558.01, Arizona Revised Statutes, is amended to
40 read:

41 **36-558.01. Operation, support and supervision of child**
42 **development homes and foster homes; duties of**
43 **department**

44 A. The department shall operate directly or support and supervise
45 child developmental ~~foster~~ homes and foster homes licensed pursuant to title

8, chapter 4, article 4 to provide specialized foster care to persons with developmental disabilities. Such homes shall be operated for persons placed pursuant to sections 8-514.01 and 8-845 and for appropriate placements for persons for whom **AND** application for residential services has been made to the department.

B. In furtherance of its responsibility pursuant to subsection A of this section, the department shall recruit, license and support such homes in accordance with this chapter, maintain regular supervision of such homes and such placements, conduct training programs for the staff of such homes and develop the program and service standards for persons with developmental disabilities to be placed in such homes.

C. Foster homes supported by the department shall be paid for each person with a developmental disability placed in the home an amount determined by the department based on the type of developmental disability and the consequent need for programs and services of each person so placed.

Sec. 8. Section 36-591, Arizona Revised Statutes, is amended to read:

36-591. Adult developmental homes; child developmental homes; licensing; applicability

A. An adult developmental home, ~~OR~~ child developmental ~~foster~~ home ~~or secure facility~~ shall be licensed pursuant to this article.

B. Group homes, except for those described in subsection E of this section, shall be licensed for health and safety by the department of health services pursuant to section 36-132.

C. The division shall notify the department of health services of:

1. Service providers who enter into contracts with the division for group homes.

2. Any violation of health and safety standards observed during monitoring visits.

D. The department of health services shall immediately notify the division:

1. When a group home license has been denied, suspended or revoked.

2. Of any other licensing action taken on a group home by the department of health services.

3. Of substantiated complaints regarding health and safety.

E. The division shall ensure that ~~state-operated~~ **STATE-OPERATED** residential settings that are owned or leased facilities operated by the division meet the same standards as group homes unless they are certified as intermediate care facilities for persons with an intellectual disability pursuant to 42 Code of Federal Regulations section 483.400. **AN INTERMEDIATE CARE FACILITY FOR PERSONS WITH AN INTELLECTUAL DISABILITY THAT IS OPERATED BY THE DIVISION OR PRIVATE ENTITY IS NOT REQUIRED TO BE LICENSED UNDER THIS SECTION IF IT IS CERTIFIED PURSUANT TO 42 CODE OF FEDERAL REGULATIONS SECTION 483.400.**

F. The department shall visit each adult developmental home and child developmental ~~foster~~ home and inspect the premises used for the care of children or vulnerable adults for sanitation, fire and other actual and potential hazards. The department shall take any action it deems necessary to carry out the duties imposed by this section, including the denial of the application for licensure and the suspension or revocation of the home's license.

~~G. An intermediate care facility for persons with an intellectual disability is not required to be licensed under this section if it is certified pursuant to 42 Code of Federal Regulations section 483.400.~~

Sec. 9. Section 36-592, Arizona Revised Statutes, is amended to read:

36-592. Adult developmental homes; child developmental homes; license application; investigation and operation

A. An applicant for an adult developmental home, ~~OR~~ child developmental ~~foster~~ home ~~or secure facility~~ license shall submit an application on a form prescribed by the department.

B. Before issuing a license to an applicant, the department shall investigate the activities and standards of care within the setting, the financial stability of the applicant, the character and training of the applicant and the adequacy of services. The department by rule shall establish standards for licensure.

C. Each license shall state in general terms the kind of setting the licensee is authorized to operate and shall prescribe the number, ages and sex of clients.

D. A licensee who holds an adult developmental home, ~~OR~~ child developmental ~~foster~~ home ~~or secure facility~~ license shall:

1. Comply with applicable health, safety and sanitation codes or standards and document its compliance.
2. File reports as prescribed by the department.
3. Allow the department to inspect or monitor its services and facility and the facility's books and records.
4. Comply with rules adopted by the department.
5. Provide for the health, safety and welfare of ~~its~~ **THE LICENSEE'S** clients.

E. A license expires one year from the date of issuance.

F. For each adult developmental home, ~~AND~~ child developmental ~~foster~~ home ~~and secure facility~~, the department shall:

1. Conduct an annual home visit.
2. Monitor the settings for compliance with department rules at least two times per year.

Sec. 10. Section 36-593, Arizona Revised Statutes, is amended to read:

36-593. Adult developmental homes; child developmental homes; provisional licenses

A. The department may issue a provisional license to an applicant or licensee who is temporarily unable to conform to standards of care

1 established by the department if the deficiencies can be remedied within six
2 months.

3 B. A provisional license is valid for six months and shall not be
4 renewed.

5 C. The department shall not issue a provisional license if conditions
6 exist that could endanger the health and safety of clients residing in the
7 setting.

8 D. If the department determines that the applicant or licensee meets
9 the standards established by the department, ~~it~~ THE DEPARTMENT shall issue a
10 regular license. The regular license is valid for one year from the date the
11 department issued the provisional license.

12 Sec. 11. Section 36-594, Arizona Revised Statutes, is amended to read:
13 36-594. Denial, suspension or revocation of license

14 The department may deny, suspend or revoke a license pursuant to title
15 41, chapter 6, article 6 for any one or a combination of the following:

16 1. An applicant or licensee violates this chapter, rules adopted
17 pursuant to this chapter, federal or state statutes or city or county
18 ordinances or codes.

19 2. An applicant or licensee refuses to cooperate in obtaining or
20 providing information the department deems necessary to determine if the
21 department's standards have been met.

22 3. An employee, applicant, licensee or adult household member of an
23 adult developmental home, ~~OR~~ child developmental ~~foster~~ home ~~or secure~~
24 ~~facility~~ has been convicted of, has been found by a court to have committed
25 or is reasonably believed to have committed a sex offense, a drug related
26 offense, a theft related offense, a violence related offense, child abuse,
27 child neglect, contributing to the delinquency of a minor or abuse or neglect
28 of a vulnerable adult. For the purposes of this paragraph, "vulnerable
29 adult" has the same meaning prescribed in section 13-3623.

30 4. An applicant or licensee materially misrepresents or wilfully fails
31 to disclose information to the department relating to the applicant's or
32 licensee's qualifications, experience or performance of responsibilities.

33 5. The department determines, using criteria established in statute or
34 rule, that an applicant or licensee is unable or unwilling to meet the
35 physical or emotional needs of clients.

36 Sec. 12. Section 36-594.02, Arizona Revised Statutes, is amended to
37 read:

38 36-594.02. Fingerprinting of adult developmental home licensees
39 and child developmental home licensees

40 A person who applies for a license for an adult developmental home or a
41 child developmental ~~foster~~ home shall have a valid fingerprint clearance card
42 issued pursuant to section 41-1758.07. The person shall certify on forms
43 that are provided by the department whether the person is awaiting trial on
44 or has been convicted of any of the offenses listed in section 41-1758.07,

1 subsections B and C in this state or similar offenses in another state or
2 jurisdiction.

3 Sec. 13. Repeal

4 Section 36-595.03, Arizona Revised Statutes, is repealed.

5 Sec. 14. Section 36-2939, Arizona Revised Statutes, is amended to
6 read:

7 36-2939. Long-term care system services

8 A. The following services shall be provided by the program contractors
9 to members WHO ARE determined to need institutional services pursuant to this
10 article:

11 1. Nursing facility services other than services in an institution for
12 tuberculosis or mental disease.

13 2. Notwithstanding any other law, behavioral health services if these
14 services are not duplicative of long-term care services provided as of
15 January 30, 1993 under this subsection and are authorized by the program
16 contractor through the long-term care case management system. If the
17 administration is the program contractor, the administration may authorize
18 these services.

19 3. Hospice services. For the purposes of this paragraph, "hospice"
20 means a program of palliative and supportive care for terminally ill members
21 and their families or caregivers.

22 4. Case management services as provided in section 36-2938.

23 5. Health and medical services as provided in section 36-2907.

24 B. In addition to the services prescribed in subsection A of this
25 section, the department, as a program contractor, shall provide the following
26 services if appropriate to members who have a developmental disability as
27 defined in section 36-551 and are determined to need institutional services
28 pursuant to this article:

29 1. Intermediate care facility services for a member who has a
30 developmental disability as defined in section 36-551. For purposes of this
31 article, a facility shall meet all federally approved standards and may only
32 include the Arizona training program facilities, a state owned and operated
33 service center, state owned or operated community residential settings and
34 private ~~state-licensed~~ facilities that contract with the department.

35 2. Home and community based services that may be provided in a
36 member's home, at an alternative residential setting as prescribed in section
37 36-591 or at other behavioral health alternative residential facilities
38 licensed by the department of health services and approved by the director of
39 the Arizona health care cost containment system administration and that may
40 include:

41 (a) Home health, which means the provision of nursing services or home
42 health aide services or medical supplies, equipment and appliances, that are
43 provided on a part-time or intermittent basis by a licensed home health
44 agency within a member's residence based on a physician's orders and in
45 accordance with federal law. Physical therapy, occupational therapy, or

1 speech and audiology services provided by a home health agency may be
2 provided in accordance with federal law. Home health agencies shall comply
3 with federal bonding requirements in a manner prescribed by the
4 administration.

5 (b) Home health aide, which means a service that provides intermittent
6 health maintenance, continued treatment or monitoring of a health condition
7 and supportive care for activities of daily living provided within a member's
8 residence.

9 (c) Homemaker, which means a service that provides assistance in the
10 performance of activities related to household maintenance within a member's
11 residence.

12 (d) Personal care, which means a service that provides assistance to
13 meet essential physical needs within a member's residence.

14 (e) Day care for persons with developmental disabilities, which means
15 a service that provides planned care supervision and activities, personal
16 care, activities of daily living skills training and habilitation services in
17 a group setting during a portion of a continuous ~~twenty-four hour~~
18 TWENTY-FOUR-HOUR period.

19 (f) Habilitation, which means the provision of physical therapy,
20 occupational therapy, speech or audiology services or training in independent
21 living, special developmental skills, sensory-motor development, behavior
22 intervention, and orientation and mobility in accordance with federal law.

23 (g) Respite care, which means a service that provides short-term care
24 and supervision available on a ~~twenty-four hour~~ TWENTY-FOUR-HOUR basis.

25 (h) Transportation, which means a service that provides or assists in
26 obtaining transportation for the member.

27 (i) Other services or licensed or certified settings approved by the
28 director.

29 C. In addition to services prescribed in subsection A of this section,
30 home and community based services may be provided in a member's home, in an
31 adult foster care home as prescribed in section 36-401, in an assisted living
32 home or assisted living center as defined in section 36-401 or in a level one
33 or level two behavioral health alternative residential facility approved by
34 the director by program contractors to all members who do not have a
35 developmental disability as defined in section 36-551 and are determined to
36 need institutional services pursuant to this article. Members residing in an
37 assisted living center must be provided the choice of single occupancy. The
38 director may also approve other licensed residential facilities as
39 appropriate on a ~~case-by-case~~ CASE-BY-CASE basis for traumatic brain injured
40 members. Home and community based services may include the following:

41 1. Home health, which means the provision of nursing services, home
42 health aide services or medical supplies, equipment and appliances, that are
43 provided on a part-time or intermittent basis by a licensed home health
44 agency within a member's residence based on a physician's orders and in
45 accordance with federal law. Physical therapy, occupational therapy, or

1 speech and audiology services provided by a home health agency may be
2 provided in accordance with federal law. Home health agencies shall comply
3 with federal bonding requirements in a manner prescribed by the
4 administration.

5 2. Home health aide, which means a service that provides intermittent
6 health maintenance, continued treatment or monitoring of a health condition
7 and supportive care for activities of daily living provided within a member's
8 residence.

9 3. Homemaker, which means a service that provides assistance in the
10 performance of activities related to household maintenance within a member's
11 residence.

12 4. Personal care, which means a service that provides assistance to
13 meet essential physical needs within a member's residence.

14 5. Adult day health, which means a service that provides planned care
15 supervision and activities, personal care, personal living skills training,
16 meals and health monitoring in a group setting during a portion of a
17 continuous ~~twenty-four-hour~~ TWENTY-FOUR-HOUR period. Adult day health may
18 also include preventive, therapeutic and restorative health related services
19 that do not include behavioral health services.

20 6. Habilitation, which means the provision of physical therapy,
21 occupational therapy, speech or audiology services or training in independent
22 living, special developmental skills, sensory-motor development, behavior
23 intervention, and orientation and mobility in accordance with federal law.

24 7. Respite care, which means a service that provides short-term care
25 and supervision available on a ~~twenty-four-hour~~ TWENTY-FOUR-HOUR basis.

26 8. Transportation, which means a service that provides or assists in
27 obtaining transportation for the member.

28 9. Home delivered meals, which means a service that provides for a
29 nutritious meal ~~containing~~ THAT CONTAINS at least one-third of the
30 recommended dietary allowance for an individual and ~~which~~ THAT is delivered
31 to the member's residence.

32 10. Other services or licensed or certified settings approved by the
33 director.

34 D. The amount of money expended by program contractors on home and
35 community based services pursuant to subsection C of this section shall be
36 limited by the director in accordance with the federal monies made available
37 to this state for home and community based services pursuant to subsection C
38 of this section. The director shall establish methods for the allocation of
39 monies for home and community based services to program contractors and shall
40 monitor expenditures on home and community based services by program
41 contractors.

42 E. Notwithstanding subsections A, B, C and F of this section, no
43 service may be provided that does not qualify for federal monies available
44 under title XIX of the social security act or the section 1115 waiver.

1 F. In addition to services provided pursuant to subsections A, B and C
 2 of this section, the director may implement a demonstration project to
 3 provide home and community based services to special populations, including
 4 persons with disabilities who are eighteen years of age or younger, ARE
 5 medically fragile, reside at home and would be eligible for supplemental
 6 security income for the aged, blind or disabled or the state supplemental
 7 payment program, except for the amount of their parent's income or resources.
 8 In implementing this project, the director may provide for parental
 9 contributions for the care of their child.

10 G. Subject to section 36-562, the administration by rule shall
 11 prescribe a deductible schedule for programs provided to members who are
 12 eligible pursuant to subsection B of this section, except that the
 13 administration shall implement a deductible based on family income. In
 14 determining deductible amounts and whether a family is required to have
 15 deductibles, the department shall use adjusted gross income. Families whose
 16 adjusted gross income is at least four hundred ~~per-cent~~ PERCENT and less than
 17 or equal to five hundred ~~per-cent~~ PERCENT of the federal poverty guidelines
 18 shall have a deductible of two ~~per-cent~~ PERCENT of adjusted gross income.
 19 Families whose adjusted gross income is more than five hundred ~~per-cent~~
 20 PERCENT of adjusted gross income shall have a deductible of four ~~per-cent~~
 21 PERCENT of adjusted gross income. Only families whose children are under
 22 eighteen years of age and who are members who are eligible pursuant to
 23 subsection B of this section may be required to have a deductible for
 24 services. For the purposes of this subsection, "deductible" means an amount
 25 a family, whose children are under eighteen years of age and who are members
 26 who are eligible pursuant to subsection B of this section, pays for services,
 27 other than departmental case management and acute care services, before the
 28 department will pay for services other than departmental case management and
 29 acute care services.

30 Sec. 15. Section 41-1037, Arizona Revised Statutes, is amended to
 31 read:

32 41-1037. General permits: issuance of traditional permit

33 A. If an agency proposes a new rule or an amendment to an existing
 34 rule that requires the issuance of a regulatory permit, license or agency
 35 authorization, the agency shall use a general permit if the facilities,
 36 activities or practices in the class are substantially similar in nature
 37 unless any of the following applies:

- 38 1. A general permit is prohibited by federal law.
- 39 2. The issuance of an alternative type of permit, license or
 40 authorization is specifically authorized by state statute.
- 41 3. The issuance of a general permit is not technically feasible or
 42 would not meet the applicable statutory requirements.
- 43 4. The issuance of a general permit would result in additional
 44 regulatory requirements or costs being placed on the permit applicant.

1 5. The permit, license or authorization is issued pursuant to section
2 8-126, 8-503, 8-505, 23-504, 36-592, 36-594.01, 36-595, ~~36-595.03~~, 36-596,
3 36-596.54, 41-1967.01 or 46-807.

4 6. The permit, license or authorization is issued pursuant to title V
5 of the clean air act.

6 B. The agency retains the authority to revoke an applicant's ability
7 to operate under a general permit and to require the applicant to obtain a
8 traditional permit if the applicant is in substantial noncompliance with the
9 applicable requirements for the general permit.